

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES J. SCAVONE, JR., Executor  
of the Estate of  
James J. Scavone, Sr.

Defendant.

Case No.

**05-40050FDS**

COMPLAINT AND REQUEST FOR JURY TRIAL

The plaintiff, the United States of America, by its undersigned counsel, at the request of a delegate of the Secretary of the Treasury and as directed by a delegate of the Attorney General, pursuant to 26 U.S.C. §§ 7401, brings this complaint to reduce an unpaid federal estate tax assessment against the Estate of James J. Scavone, Sr. to judgment. For these purposes, the United States complains and alleges as follows:

1. This Court has jurisdiction over this action pursuant to Sections 1340 and 1345 of Title 28 of the United States Code, and pursuant to Section 7402 of Title 26 of the United States Code.

2. Defendant, James J. Scavone, Jr. ("Executor") is the Executor of the Estate of James J. Scavone, Sr. ("Taxpayer")

3. Executor resides at 103 Teele Road, Bolton, Massachusetts within the jurisdiction of this court.

4. A delegate of the Secretary of the Treasury made assessments against the taxpayer for federal estate tax liabilities, on the dates, and in the amounts, follows:

Tax, Interest or Penalty Assessed	Assessment Date	Amount Assessed
Tax	February 17, 1992	1,559,796.18
Interest	August 24, 1992	70,939.47
Interest	September 7, 1992	6,969.58
Interest	April 26, 1993	9,365.13
Tax	March 23, 1995	356,387.28
Interest	March 23, 1995	126,156.06
Interest	June 19, 1995	5,353.53
Failure to Pay Penalty	March 17, 2005	18,729.75

5. On or about the dates of assessment of the tax liabilities, notice and demand for payment of the liabilities was given to the taxpayer.

6. Payments of \$1,938,632.20 have been made towards the estate tax liability.

7. Despite notice and demand, the Executor has refused or neglected to pay fully the assessed liability of the Taxpayer.

8. Interest continues to accrue on the assessed estate tax liabilities.

9. There remains due and owing to the United States from the taxpayer, the sum of \$427,186.58 plus statutory interest and additions from March 23, 2005.

WHEREFORE, the plaintiff, the United States of America,  
requests the following relief:

- a) That this Court enter judgment with respect to the unpaid balance of assessment described in paragraph 4, above, in favor of the United States and against James J. Scavone, Jr., as Executor of the Estate of James J. Scavone, Sr., in the amount of \$427,186.58, plus interest and other statutory additions accruing from and after March 1, 2005;
- b) That this Court award the United States such other and further relief as this Court deems just and proper, including judgment pursuant to 28 U.S.C. § 1920 for the amount of its costs incurred in this action.

MICHAEL J. SULLIVAN  
United States Attorney

BARBARA HEALY SMITH  
Assistant U.S. Attorney



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JS 44 (N.D. Ohio)

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## Civil Cover Sheet

The JS-44 Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Please refer to the instructions on page 2.

## 1. (a) PLAINTIFFS

United States of America

## DEFENDANTS

James J. Scavone, Jr., as Executor of the Estate of James J. Scavone, Sr.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Worcester  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEY'S NAME (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Stephen J. Turanchik, U.S. Dept. of Justice, Tax Division  
P.O. Box 55, Ben Franklin Stat., Washington, DC 20044  
(202) 307-6565

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION (PLACE A CHECK IN ONE BOX ONLY)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Gov't Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(PLACE A CHECK IN ONE BOX FOR PLAINTIFF AND IN ONE BOX FOR DEFENDANT)

- |  |                            |  |                            |
|--|----------------------------|--|----------------------------|
| PTF  | DEF                        | PTF  | DEF                        |
| Citizen of this State <input type="checkbox"/> 1                   | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State <input type="checkbox"/> 4     | <input type="checkbox"/> 4 |
| Citizen of another State <input type="checkbox"/> 2                | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in another State <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation <input type="checkbox"/> 6  | <input type="checkbox"/> 6 |

## IV. ORIGIN

(PLACE A CHECK IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT

Please click on the appropriate nature of suit

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Overpayment Recovery & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excluding Veterans) 153 Recovery of Overpayment of Vet's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Prod. Liability	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel, Slander 330 Federal Employer's 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Pers. Injury	610 Agriculture 620 Other Food & Drug 625 Drug Related Seizure of Property 21 USC § 881 630 Liquor Laws 640 Railroad & Truck 650 Airline Regulations 660 Occupational Safety/Health 690 Other  LABOR 710 Fair Labor Standards Act 720 Labor/Management Relations 730 Labor/Management Reporting and Disclosure Act 740 Railway Labor Act 790 Other Labor Litigation 791 Employees Retirement Income Security Act (ERISA)	422 Appeal 28 USC § 158 423 Withdrawal 28 USC § 157  PROPERTY RIGHTS 820 Copyrights 830 Patent 840 Trademark  SOCIAL SECURITY 861 HIA (1395f) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))  FEDERAL TAX SUITS 870 Taxes (U.S. Plaintiff or Def.) 871 IRS-Third Party 26 USC § 7609	400 State Reapportionment 410 Antitrust 430 Banks & Banking 450 Commerce/ICC Rates, etc. 460 Deportation 470 Racketeer Influenced and Corrupt Organizations (Civil RICO) 810 Selective Service 850 Securities/Commodities/Exchange 875 Customer Challenge 12 USC § 3410 891 Agricultural Acts 892 Economic Stabilization Act 893 Environmental Matters 894 Energy Allocation Act 895 Freedom of Information Act 900 Appeal of Fee Determination Under Equal Access to Justice Act 950 Constitutionality of State Statute 890 Other Statutory Actions
REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectm't 240 Torts to Land 245 Tort Product Liability 290 All Other Real Prop.	CIVIL RIGHTS 441 Voting 442 Employment 443 Housing/ Accommodations 444 Welfare 440 Other Civil Rights	PRISONER PETITIONS 510 Motions to Vacate Sentence HABEAS CORPUS: 530 General 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prison Conditions		

## VI. CAUSE OF ACTION (Cite the U.S. civil statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statute unless this is a diversity action)

26 U.S.C. 7401, 7403 -- Reduce Tax Assessments to Judgment

## VII. REQUESTED IN COMPLAINT:

☐ Check if this is a Fed. R. Civ. P. 23 Class Action

DEMAND: \$

CHECK YES ONLY IF DEMANDED IN COMPLAINT:  
JURY DEMAND: ☒ YES ☐ NO

## VIII. RELATED CASE(S)

IF ANY (SEE INSTRUCTIONS)

JUDGE

DOCKET NUMBER

Date

FOR CLERK'S OFFICE USE ONLY

RECEIPT NO.

AMOUNT \$

JUDGE

MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) United States of America v. James J. Scavone, Jr., as Executor of the Estate of James J. Scavone, Sr.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

\_\_\_ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

X II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.

\*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

\_\_\_ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

\_\_\_ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

\_\_\_ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☒ NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☐ Central Division ☒ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Stephen J. Turanchik, U.S. Dept. of Justice, Tax Division

ADDRESS P.O. Box 55, Ben Franklin Station, Washington, DC 20044

TELEPHONE NO. (202) 307-6565